DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-5 are rejected under 35 U.S.C. 101 based on Supreme Court precedent, and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972); Cochrane v. Deener, 94 U.S. 780,787-88 (1876).

An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.
Here, applicant's method steps, fail the first prong of the new Federal Circuit decision since they are not tied to another statutory class and can be preformed without the use of a particular apparatus. Thus, claims 1-5 non-statutory since they may be preformed within the human mind.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,794,217 to Allen in view of U.S. Patent Application No. 2005/0040774 to Mueller et al.

Regarding claims 1-4, Allen discloses the method of selling items comprising the manufacturing, packaging and merchandising of items (abstract; col. 8, lines 19-20; col. 4, lines 12-35). However, Allen does not explicitly disclose the manufacturing light bulbs based on room color; adjusting Kelvin rating on light bulbs; light bulbs affect spectrum of visible light that is emitted; and light bulbs affect spectrum that has been created and down plays colors that are not.

Mueller, on the other hand, teaches the manufacturing light bulbs based on room color; adjusting Kelvin rating on light bulbs; light bulbs affect spectrum of visible light that is emitted; and light bulbs affect spectrum that has been created and down plays colors that are not (abstract; paragraphs 26-27; paragraph 128; paragraph 187; paragraph 192).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Allen, to include the

manufacturing light bulbs based on room color; adjusting Kelvin rating on light bulbs; light bulbs affect spectrum of visible light that is emitted; and light bulbs affect spectrum that has been created and down plays colors that are not, as taught by Mueller, in order to specify a point within the range of color producible by a lighting fixture that will be the point of highest intensity (Mueller, paragraph 19).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application No. 2005/0040774 to Mueller et al. in view of U.S. Patent No. 5,794,217 to Allen.

Mueller discloses the method comprising adjusting a Kelvin rating on said lights bulbs; determining said spectrum of light affect by said light bulb; and how colors in a room are effect by said light bulb (abstract; paragraphs 26-27; paragraph 128; paragraph 187; paragraph 192). However, Mueller does not explicitly disclose packaging and markings on said packaging.

Allen, on the other hand, teaches packaging and markings on said packaging (col. 8, lines 19-20).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Mueller, to include packaging and markings on said packaging, as taught by Allen, in order to provide a method which permits for improved marketing, selection and previewing capabilities without the need for maintaining large inventories of material at a point of sale location (Allen, col. 3, lines 20-23).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,975,079 to Lys et al. discloses a method for controlling the conversion of data inputs to a computer-based light system into light control signals.

U.S. Patent No. 7,202,613 to Morgan et al. discloses light units of a variety of types and configuration, including linear lighting units suitable for lighting large spaces such as building exteriors and interiors.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARISSA THEIN whose telephone number is (571)272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Elaine Gort/
Primary Examiner, Art Unit 3687

Mtot /M. T./
Examiner, Art Unit 3627